

106TH CONGRESS
1ST SESSION

S. 244

AN ACT

To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lewis and Clark Rural
5 Water System Act of 1999”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ENVIRONMENTAL ENHANCEMENT.—The
4 term “environmental enhancement” means the wet-
5 land and wildlife enhancement activities that are
6 carried out substantially in accordance with the envi-
7 ronmental enhancement component of the feasibility
8 study.

9 (2) ENVIRONMENTAL ENHANCEMENT COMPO-
10 NENT.—The term “environmental enhancement
11 component” means the proposals described in the re-
12 port entitled “Wetlands and Wildlife Enhancement
13 for the Lewis and Clark Rural Water System”,
14 dated December 1994.

15 (3) FEASIBILITY STUDY.—The term “feasibility
16 study” means the study entitled “Feasibility Level
17 Evaluation of a Missouri River Regional Water Sup-
18 ply for South Dakota, Iowa and Minnesota”, dated
19 September 1993, that includes a water conservation
20 plan, environmental report, and environmental en-
21 hancement component.

22 (4) INCREMENTAL COST.—The term “incre-
23 mental cost” means the cost of the savings to the
24 project were the city of Sioux Falls not to partici-
25 pate in the water supply system.

1 (5) MEMBER ENTITY.—The term “member en-
 2 tity” means a rural water system or municipality
 3 that meets the requirements for membership as de-
 4 fined by the Lewis and Clark Rural Water System,
 5 Inc. bylaws, dated September 6, 1990.

6 (6) PROJECT CONSTRUCTION BUDGET.—The
 7 term “project construction budget” means the de-
 8 scription of the total amount of funds needed for the
 9 construction of the water supply project, as con-
 10 tained in the feasibility study.

11 (7) PUMPING AND INCIDENTAL OPERATIONAL
 12 REQUIREMENTS.—The term “pumping and inci-
 13 dental operational requirements” means all power
 14 requirements that are necessary for the operation of
 15 intake facilities, pumping stations, water treatment
 16 facilities, reservoirs, and pipelines up to the point of
 17 delivery of water by the water supply system to each
 18 member entity that distributes water at retail to in-
 19 dividual users.

20 (8) SECRETARY.—The term “Secretary” means
 21 the Secretary of the Interior.

22 (9) WATER SUPPLY PROJECT.—

23 (A) IN GENERAL.—The term “water sup-
 24 ply project” means the physical components of
 25 the Lewis and Clark Rural Water Project.

1 (B) INCLUSIONS.—The term “water supply
2 project” includes—

3 (i) necessary pumping, treatment, and
4 distribution facilities;

5 (ii) pipelines;

6 (iii) appurtenant buildings and prop-
7 erty rights;

8 (iv) electrical power transmission and
9 distribution facilities necessary for services
10 to water systems facilities; and

11 (v) such other pipelines, pumping
12 plants, and facilities as the Secretary con-
13 sider necessary and appropriate to meet
14 the water supply, economic, public health,
15 and environment needs of the member en-
16 tities (including water storage tanks, water
17 lines, and other facilities for the member
18 entities).

19 (10) WATER SUPPLY SYSTEM.—The term
20 “water supply system” means the Lewis and Clark
21 Rural Water System, Inc., a nonprofit corporation
22 established and operated substantially in accordance
23 with the feasibility study.

1 **SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**
2 **SYSTEM.**

3 (a) IN GENERAL.—The Secretary shall make grants
4 to the water supply system for the planning and construc-
5 tion of the water supply project.

6 (b) SERVICE AREA.—The water supply system shall
7 provide for the member entities safe and adequate munic-
8 ipal, rural, and industrial water supplies, environmental
9 enhancement, mitigation of wetland areas, and water con-
10 servation in—

11 (1) Lake County, McCook County, Minnehaha
12 County, Turner County, Lincoln County, Clay Coun-
13 ty, and Union County, in southeastern South Da-
14 kota;

15 (2) Rock County and Nobles County, in south-
16 western Minnesota; and

17 (3) Lyon County, Sioux County, Osceola Coun-
18 ty, O'Brien County, Dickinson County, and Clay
19 County, in northwestern Iowa.

20 (c) AMOUNT OF GRANTS.—Grants made available
21 under subsection (a) to the water supply system shall not
22 exceed the amount of funds authorized under section 9.

23 (d) LIMITATION ON AVAILABILITY OF CONSTRUC-
24 TION FUNDS.—The Secretary shall not obligate funds for
25 the construction of the water supply project until—

1 (1) the requirements of the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
3 are met; and

4 (2) a final engineering report and a plan for a
5 water conservation program are prepared and sub-
6 mitted to Congress not less than 90 days before the
7 commencement of construction of the water supply
8 project.

9 **SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL**
10 **ENHANCEMENT COMPONENT.**

11 (a) INITIAL DEVELOPMENT.—The Secretary shall
12 make grants and other funds available to the water supply
13 system and other private, State, and Federal entities, for
14 the initial development of the environmental enhancement
15 component.

16 (b) NONREIMBURSEMENT.—Funds provided under
17 subsection (a) shall be nonreimbursable and nonreturn-
18 able.

19 **SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

20 Mitigation for fish and wildlife losses incurred as a
21 result of the construction and operation of the water sup-
22 ply project shall be on an acre-for-acre basis, based on
23 ecological equivalency, concurrent with project construc-
24 tion, as provided in the feasibility study.

1 **SEC. 6. USE OF PICK-SLOAN POWER.**

2 (a) IN GENERAL.—From power designated for future
3 irrigation and drainage pumping for the Pick-Sloan Mis-
4 souri River Basin Program, the Western Area Power Ad-
5 ministration shall make available the capacity and energy
6 required to meet the pumping and incidental operational
7 requirements of the water supply project during the period
8 beginning May 1 and ending October 31 of each year.

9 (b) CONDITIONS.—The capacity and energy described
10 in subsection (a) shall be made available on the following
11 conditions:

12 (1) The water supply system shall be operated
13 on a not-for-profit basis.

14 (2) The water supply system shall contract to
15 purchase the entire electric service requirements of
16 the project, including the capacity and energy made
17 available under subsection (a), from a qualified pref-
18 erence power supplier that itself purchases power
19 from the Western Area Power Administration.

20 (3) The rate schedule applicable to the capacity
21 and energy made available under subsection (a) shall
22 be the firm power rate schedule of the Pick-Sloan
23 Eastern Division of the Western Area Power Admin-
24 istration in effect when the power is delivered by the
25 Administration to the qualified preference power
26 supplier.

1 (4) It is agreed by contract among—

2 (A) the Western Area Power Administra-
3 tion;

4 (B) the power supplier with which the
5 water supply system contracts under paragraph
6 (2);

7 (C) the power supplier of the entity de-
8 scribed in subparagraph (B); and

9 (D) the water supply system;

10 that in the case of the capacity and energy made
11 available under subsection (a), the benefit of the
12 rate schedule described in paragraph (3) shall be
13 passed through to the water supply system, except
14 that the power supplier of the water supply system
15 shall not be precluded from including, in the charges
16 of the supplier to the water system for the electric
17 service, the other usual and customary charges of
18 the supplier.

19 **SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.**

20 This Act does not limit the authorization for water
21 projects in the States of South Dakota, Iowa, and Min-
22 nesota under law in effect on or after the date of enact-
23 ment of this Act.

24 **SEC. 8. WATER RIGHTS.**

25 Nothing in this Act—

1 (1) invalidates or preempts State water law or
2 an interstate compact governing water;

3 (2) alters the rights of any State to any appro-
4 priated share of the waters of any body of surface
5 or ground water, whether determined by past or fu-
6 ture interstate compacts or by past or future legisla-
7 tive or final judicial allocations;

8 (3) preempts or modifies any Federal or State
9 law, or interstate compact, governing water quality
10 or disposal; or

11 (4) confers on any non-Federal entity the abil-
12 ity to exercise any Federal right to the waters of any
13 stream or to any ground water resource.

14 **SEC. 9. COST SHARING.**

15 (a) FEDERAL COST SHARE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the Secretary shall provide funds equal to
18 80 percent of—

19 (A) the amount allocated in the total
20 project construction budget for planning and
21 construction of the water supply project under
22 section 3; and

23 (B) such amounts as are necessary to de-
24 fray increases in development costs reflected in

1 appropriate engineering cost indices after Sep-
2 tember 1, 1993.

3 (2) SIOUX FALLS.—The Secretary shall provide
4 funds for the city of Sioux Falls, South Dakota, in
5 an amount equal to 50 percent of the incremental
6 cost to the city of participation in the project.

7 (b) NON-FEDERAL COST SHARE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the non-Federal share of the costs allo-
10 cated to the water supply system shall be 20 percent
11 of the amounts described in subsection (a)(1).

12 (2) SIOUX FALLS.—The non-Federal cost-share
13 for the city of Sioux Falls, South Dakota, shall be
14 50 percent of the incremental cost to the city of par-
15 ticipation in the project.

16 **SEC. 10. BUREAU OF RECLAMATION.**

17 (a) AUTHORIZATION.—At the request of the water
18 supply system, the Secretary may allow the Commissioner
19 of Reclamation to provide project construction oversight
20 to the water supply project and environmental enhance-
21 ment component for the service area of the water supply
22 system described in section 3(b).

23 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
24 amount of funds used by the Commissioner of Reclama-
25 tion for oversight described in subsection (a) shall not ex-

1 exceed the amount that is equal to 1 percent of the amount
2 provided in the total project construction budget for the
3 entire project construction period.

4 (c) OPERATION AND MAINTENANCE.—The water
5 supply system shall be responsible for annual operation
6 and maintenance of the project.

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to carry out
9 this Act \$223,987,700, to remain available until expended,
10 of which not more than \$10,100,000 shall be used for the
11 initial development of the environmental enhancement
12 component under section 4.

Passed the Senate November 19, 1999.

Attest:

Secretary.

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